

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 DAVID J WELCH, et al.,

11 Plaintiffs,

12 v.

13 METROPOLITAN LIFE INSURANCE
14 COMPANY, et al.,

15 Defendants.
16

CASE NO. C21-904 MJP

ORDER TO SHOW CAUSE

17 The Court raises this matter sua sponte and in light of Plaintiffs' "Emergency" Motion to
18 Remand. (Dkt. No. 23.) As outlined in Plaintiffs' Motion, Defendant Velan Valve Corp.
19 removed this matter after Plaintiffs voluntarily dismissed their claims against Velan in King
20 County Superior Court. (See Declaration of Vanessa Firnhaber Oslund Exs. 5-7 (Dkt. No. 24).)
21 The removal of this case appears to have been effectuated by a party against whom no claims
22 were pending, given the voluntary dismissal, and no other defendant has joined in the removal.
23 See Wash. R. Civ. P. 41; Wachovia SBA Lending, Inc. v. Kraft, 165 Wn.2d 481, 492 (2009) ("A
24 voluntary dismissal leaves the parties as if the action had never been brought."). Removal of the

1 claims by a dismissed party does not appear to be proper under 28 U.S.C. § 1442(a)(1). See, e.g.,
2 Ristuccia v. Adams, 406 F.2d 1257, 1258 (9th Cir. 1969) (“[T]o remove an action to the federal
3 courts from a state court, it must first be pending in the state court.”).

4 The Court therefore ORDERS Velan to SHOW CAUSE why this case should not be
5 remanded and why sanctions for the improper removal should not be imposed under 28 U.S.C. §
6 1447(c). Velan shall have 7 days from the date of this order to file its response of no more than 8
7 pages. Plaintiffs shall be permitted a response of no more than 5 pages due 3 days after Velan’s
8 response. No reply shall be permitted and none of the other defendants may file a response to this
9 Order to Show Cause unless expressly invited to do so by the Court.

10 The clerk is ordered to provide copies of this order to all counsel.

11 Dated July 13, 2021.



12
13 Marsha J. Pechman
United States Senior District Judge
14
15
16
17
18
19
20
21
22
23
24